



## **CUMBRIA COUNTY COUNCIL**

### **MAINTAINING THE DEFINITIVE MAP AND STATEMENT WILDLIFE & COUNTRYSIDE ACT 1981 PART III**

#### **STATEMENT OF PRIORITIES**

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The Definitive Map and Statement (“DM&S”) of Public Rights of Way for Cumbria is the legal record of public rights of way in the county. As such it is conclusive evidence of the existence of a public right of way and its status, width, position and any limitations or conditions (section 56 Wildlife and Countryside Act 1981(“the Act”).

It has a relevant date of 1<sup>st</sup> January 1976.

It is the statutory duty of Cumbria County Council as the surveying authority to keep the DM&S under continuous review and modified by way of Orders as and when relevant events occur (section 53 of the Act).

There are a number of areas of work which Cumbria County Council is carrying out to maintain and update the Definitive Map:

- 1. Processing Legal Event Modification Orders to consolidate the DM&S**
- 2. Digitisation of the DM&S**
- 3: Processing Evidential Event Modification Orders**
- 4: Investigating Other Evidence to Modify the DM&S**

#### **Task 1: Processing Legal Event Modification Orders**

Cumbria County Council (CCC) has the power to make Public Path Orders and Agreements to alter the public rights of way network. It is not a statutory duty for the Highway Authority to make such orders but Cumbria County Council processes requests from the public as quickly as possible depending on resources available and in the date order they are received. When such a legal change is confirmed and comes into operation CCC is required to make a modification order to alter the DM&S.

CCC is presently preparing an Omnibus Legal Event Modification Order to be able to produce a new Definitive Map and Statement with a relevant date of 1<sup>st</sup> April 2011.

## **Task 2: Digitisation of The Definitive Map and Statement**

Cumbria County Council (CCC) has made a significant commitment to produce the new 2011 DM&S utilising digital geographical mapping software. This will replace an out-of-date paper-based version and has many benefits, including Public availability and improved management processes.

The continuous review and modification of the DM&S, together with maintaining and improving the accuracy and integrity of the data is vital to ensuring that the DM&S is up-to-date and provides current management information.

Future developments include the following:

- Increasing public availability of the DM&S, including making map based information available on the county council website.
- Improving the accuracy of the DM&S: A number of long-standing minor anomalies have been identified within the existing data, for example within the detail recorded in the Statement or between information contained in the Statement and the route depicted on the Map. Many of these cannot be amended, however minor, without carrying out complex legal order processes. An assessment will be made and discrepancies prioritised for resolution.
- Keeping the DM&S up to date by making an annual legal event order to bring into effect changes resulting from public path orders and agreements.
- Republishing the DM&S: The timing for this major piece of work will be kept under review and carried out when necessary

## **Task 3: Processing Evidential Event Modification Orders**

Any person with substantive evidence of an error or omission may apply to the highway authority for a definitive map modification order to add or delete a right of way from the DM&S, or to upgrade or downgrade one that is already shown, or to amend the particulars contained in the map or statement. Most such 'claims' are to add rights to the DM&S on the basis that they exist but are not recorded. The procedure is set out in Schedule 14 of the 1981 Wildlife and Countryside Act.

The authority is required, as soon as reasonably practicable after receipt of applications, to investigate and decide whether to make the order sought. If after

12 months no decision has been made, the applicant may appeal to the Secretary of State who may then direct the authority to determine the application and may impose a deadline. The Secretary of State is likely to take the existence of a Statement of Priorities into account when considering these appeals.

At present there are a considerable number of outstanding applications made under Schedule 14 of the Act (40 cases as at January 2010).

The present approach is to work on cases (whether at pre- or post-determination stages) as far as practicable in the order in which applications were originally received. This is considered to be the fairest and most equitable to all parties in the current circumstances.

It is recognised that it will not be possible to determine applications within the statutory 12-month period for the foreseeable future. The waiting list for new applicants, given current levels of resources, currently stands at approximately 10 years.

The authority will avoid disrupting the chronological process as much as possible. However, in certain instances, it may be necessary to treat an application out of turn and give it greater priority as the impact of deferral would have significant consequences. These cases will be solely at the discretion of the authority. If an applicant considers this is warranted it should be drawn to the attention of the case officer as soon as possible, but applicants should be aware that such actions will be taken in rare and exceptional circumstances only

*As a starting point the authority will process applications in date of order received. However applications will be given greater priority where:-*

- a) *the route is being threatened by potential development.*
- b) *the route is , in comparison with other cases, exceptional in terms of the personal implications of delay.*
- c) *the route has been identified as an important link in the rights of way improvement plan or as a safe route to school.*
- d) *the route is one where early resolution is in the best interests of landowners and community.*
- e) *the route forms part of a route that is considered to be of 'strategic importance' i.e. National Trails/Coastal Access.*
- f) *the route provides access to land identified as 'access land' under CRow Act.*
- g) *there is significant financial saving to the County Council (and therefore taxpayer) through the processing of an Order.*

*It may also be necessary to treat an application out of turn where the Secretary of State or the Local Courts have directed that the application be determined within a specified time.*

Application details are listed on a statutory register called the 'DMMO Register' that can be viewed on our website at;

[http://www.cumbria.gov.uk/roads-transport/public-transport-road-safety/countryside-access/Definitive\\_Map/DMMO\\_Register.asp](http://www.cumbria.gov.uk/roads-transport/public-transport-road-safety/countryside-access/Definitive_Map/DMMO_Register.asp)

#### **Task 4: Investigating Other Evidence to Modify the DM&S**

A number of situations have been brought to our attention, or come to light during the course of our work, which could indicate possible errors or omissions in the DM&S (e.g. an unexplained change of status of a path where it crosses a parish boundary). These will be prioritised and researched as resources permit. However, any person asserting that the DM&S should be modified is strongly recommended to submit the evidence as part of a formal application under schedule 14 of the Act (see Task 3 above).

Cumbria County Council  
Environment  
Countryside Access

May 2010